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## DECLARATION of COVENANTS and RESTRICTIONS

THIS COVENANT is made the 13<sup>th</sup> day of ~~OCTOBER~~ NOVEMBER 2003, by ABB Prospects, Inc., a corporation organized and existing under the laws of the State of Connecticut, being the successor to the ownership interest of Combustion Engineering, Inc. in property situated at 95 Ames Street, Rochester, New York, 14611 known as the former Taylor Instruments Site, and having an office for the transaction of business at 501 Merritt 7, Norwalk, Connecticut.

WHEREAS, the former Taylor Instruments site is the subject of a Voluntary Agreement bearing Index B8-0508-97-02 executed by Combustion Engineering, Inc. as part of the New York State Department of Environmental Conservation's (the "Department") Voluntary Cleanup Program which Voluntary Cleanup Agreement was recorded in the Monroe County Clerk's Office on July 12, 2000, in Book 09334 of Deeds at Page 0524, namely that parcel of real property located on 95 Ames Street in the City of Rochester, County of Monroe, State of New York, bearing parcel number 120.410-0001-001.002/0000IH, and being more particularly described in Appendix "A", attached to this declaration and made a part hereof, and hereinafter referred to as the "Property"; and

WHEREAS, the Department approved a remedy to eliminate or mitigate all significant threats to the environment presented by the contamination present at the Property and such remedy requires that the Property be subject to restrictive covenants.

NOW, THEREFORE, Combustion Engineering, Inc., for itself and its successors and/or assigns, covenants that:

FIRST, the Property subject to this Declaration of Covenants and Restrictions is more particularly described in Appendix "A" and is shown on a map attached to this declaration as Appendix "B" and made a part hereof;

SECOND, the owner of the Property shall, and hereby does, prohibit the Property from being used for purposes other than for restricted industrial or restricted commercial excluding daycare and health care uses unless the expressed written waiver of such prohibition is obtained from the Department or if the Department shall no longer exist, any New York State agency or agencies subsequently created to protect the environment of the State and the health of the State's citizens (the "Relevant Agency");

THIRD, the owner of the Property shall, and hereby does, prohibit any disturbance of soil or fill at the Property without first complying with the Soils Management Plan approved per the Voluntary Agreement;

FOURTH, the owner of the Property shall maintain the cap covering the Property by maintaining its asphalt cover or, after obtaining the written approval of the Relevant Agency, by capping the Property with another material;

FIFTH, the owner of the Property shall, and hereby does, prohibit the use of the groundwater underlying the Property without treatment rendering it safe for drinking water or industrial purposes, as appropriate, unless the user first obtains permission to do so from the Relevant Agency;

SIXTH, the owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Voluntary Agreement [specifically consisting of prohibiting future buildings constructed on the Property from having basements (i.e., must be slab-on-grade construction) and installation of passive vapor barriers, or, if required by NYSDEC, sub-slab depressurization systems, beneath all new buildings on the site to control potential exposures to indoor air spaces from VOC vapors] and maintain such controls unless the owner first obtains permission to discontinue such controls from the Relevant Agency;

SEVENTH, Combustion Engineering, Inc., and its successor, ABB Prospects, Inc.,



## AMENDED DECLARATION of COVENANTS and RESTRICTIONS

THIS AMENDED COVENANT is made the 21 day of January 2005, by ABB Prospects, Inc., a corporation organized and existing under the laws of the State of Connecticut, being the successor to the ownership interest of Combustion Engineering, Inc. in property situated at 95 Ames Street, Rochester, New York, 14611 known as the former Taylor Instruments Site, and having an office for the transaction of business at 501 Merritt 7, Norwalk, Connecticut.

WHEREAS, the former Taylor Instruments site is the subject of a Voluntary Cleanup Agreement recorded in the Monroe County Clerk's Office on July 12, 2000, in Book 09334 of Deeds at Page 0524, concerning that parcel of real property located on 95 Ames Street in the City of Rochester, County of Monroe, State of New York, bearing parcel number 120.410-0001-001.002/0000IH, hereinafter referred to as the "Property;" and

WHEREAS, an original Declaration of Covenants and Restrictions was executed on October 13, 2003 and recorded in the Monroe County Clerk's Office on November 6, 2003, at 9:53 AM, concerning the Property;

WHEREAS, the Department's final approval of the remedy implemented by the owner of the Property to eliminate or mitigate all significant threats to the environment presented by the contamination present at the Property has been conditioned upon revisions to clarify the original Declarations of Covenants and Restrictions;

NOW, THEREFORE, Combustion Engineering, Inc., for itself and its successors and/or assigns, modifies and amends the covenants and restrictions as follow:

**The FIRST paragraph shall be modified as follows:** The Property subject to the Declaration of Covenants and Restrictions was depicted on a map attached to the original declaration as Appendix "B" which map is hereby amended by the attached map, dated July 2, 2004, which specifically defines the areas referenced on the original map;

**The FOURTH paragraph shall be modified as follows:** The owner of the Property shall maintain the cap covering the Property in the area on the attached map circled in blue and referred to as "Asphalt Cap Maintenance Area Boundary" by maintaining its asphalt cover or, after obtaining the written approval of the Relevant Agency, by capping the Property with another material;

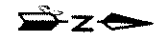
**The SIXTH paragraph shall be modified as follows:** The owner of the Property shall continue in full force and effect any institutional and engineering controls required under the Voluntary Agreement [specifically consisting of prohibiting future buildings constructed on the Property from having basements (i.e., must be slab-on-grade construction) and installation of passive vapor barriers, or, if required by NYSDEC, sub-slab depressurization systems, beneath all new buildings on the site to control potential exposures to indoor air spaces from VOC vapors] and maintain such controls unless the owner first obtains permission to

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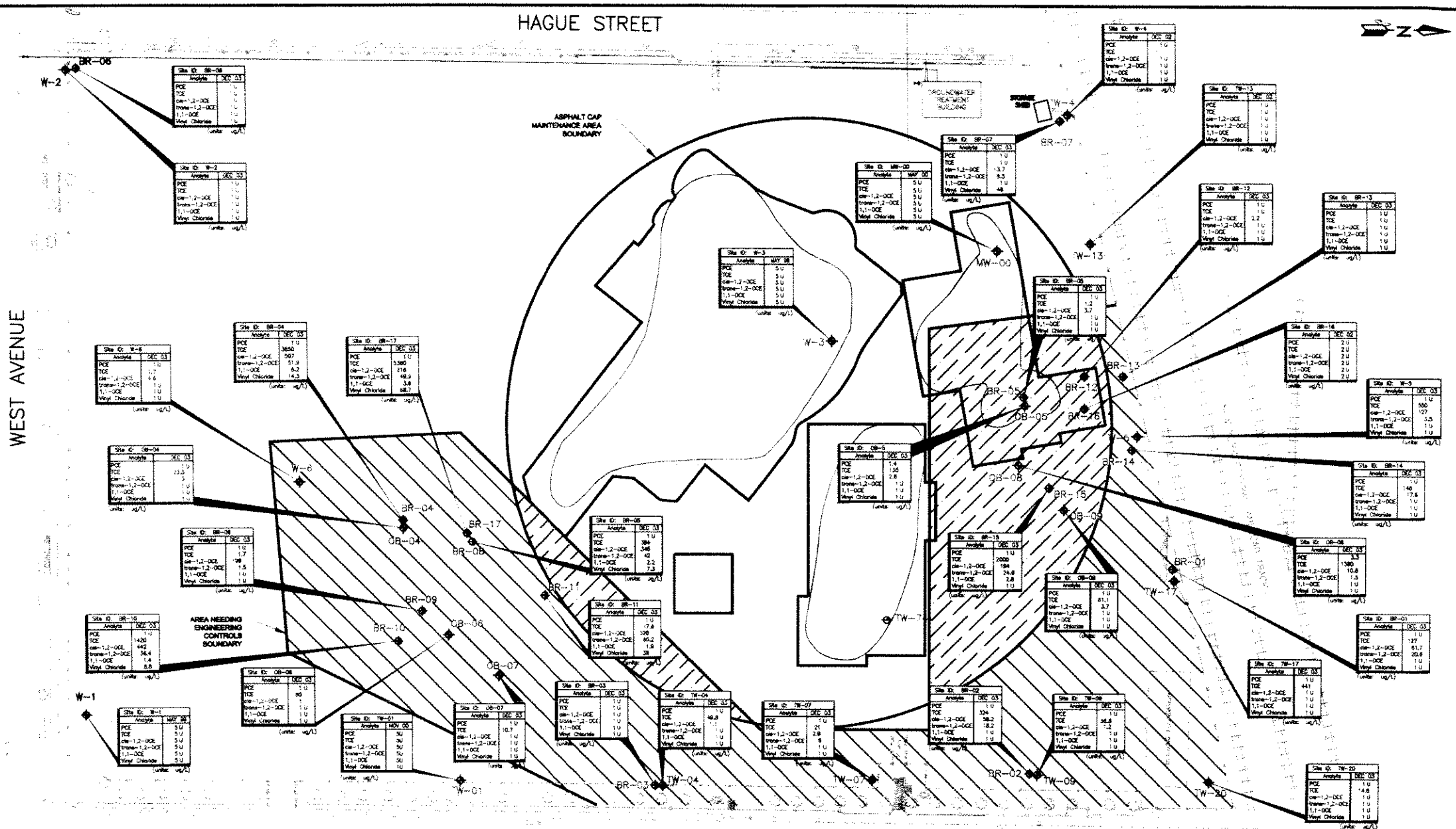
Box 30-ETHM



HAGUE STREET



WEST AVENUE



LEGEND

- ◆ OVERLAPPING MONITORING WELL (OR, MW, TW, W)
- ◆ REDUCED MONITORING WELL (BR)
- DOE DICHLORODIBENZO
- PCE TETRACHLOROETHYLENE (PERCHLORODIBENZO)
- TCE TRICHLOROETHYLENE
- U UNSATURATED VAPOR
- U NOT DETECT
- NS NOT SAMPLED
- AREA LIMIT INDICATION (PROPOSED OR RENOVATION WORK PLAN)
- ACTUAL AREA OF EXCAVATION
- ▨ AREA NEEDING ENGINEERING CONTROLS
- ▨ OVERLAPPING OF AREA NEEDING ENGINEERING CONTROLS BOUNDARY AND ASPHALT CAP AREA BOUNDARY

Site ID	Analysis	DEC 03
BR-08	PCE	1.0
BR-08	TCE	1.0
BR-08	DOE	1.0
BR-08	U	1.0
BR-08	NS	1.0

VOC'S IN GROUNDWATER



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DETERMINATION OF ENGINEERING CONTROL AREAS  
95 AMES STREET  
FORMER TAYLOR INSTRUMENTS SITE  
ROCHESTER, NEW YORK

DRAFTING BY: <i>RSS</i>	PREPARED BY:	CHECKED BY:
JOB NUMBER: 51870	DATE: JULY 2, 2004	SCALE: 0 80'

CONTROL AREA 7-2-04-001 - 8/2/04